

REMARKS

Status of the Claims

Claims 1-61 are pending in the present application.

Requirement for Restriction

The Examiner has required election in the present application between:

Group I, claims 1-4, 24-48 and 50, drawn to products of the Formula I, wherein Ar is a C₆₋₁₄ aryl group and Cy is a 5-membered heteroaryl group;

Group II, claims 1-4, 24-48 and 50, drawn to products of the Formula I, wherein Ar is a C₆₋₁₄ aryl group and Cy is a 6-membered heteroaryl group;

Group III, claims 1-4, 24-48 and 50, drawn to products of the Formula I, wherein Ar is a 5-14 membered heteroaryl group and Cy is a 5-membered heteroaryl group;

Group IV, claims 1-4, 24-48 and 50, drawn to products of the Formula I, wherein Ar is a 5-14-membered heteroaryl group and Cy is a 6-membered heteroaryl group;

Group V, claims 5-19, drawn to products of the Formula II, wherein Ar is a C₆₋₁₄ aryl group;

Group VI, claims 5-19, drawn to products of the Formula II, wherein Ar is a 5-14-membered heteroaryl group;

Group VII, claims 5-19, drawn to products of the Formula III, wherein Ar is a C₆₋₁₄ aryl group;

Group VIII, claims 5-19, drawn to products of the Formula III, wherein Ar is a 5-14 membered heteroaryl group; and

Group IX, claims 51-61, drawn to compositions and methods of use for the compounds of formula I.

For the purpose of examination of the present application, Applicants elect, with traverse, Group VII, Claims 5-19.

At the outset, this restriction requirement is traversed as being confusing. For example, the Examiner states that Group VII is directed to claims 5-19, drawn to products of the Formula III. However, claims 5-19 are directed to compounds of Formula II rather than Formula III. Similarly, claim 50 should be grouped with Group IX.

In order to expedite prosecution, Applicants elect Group VII, drawn to products of the Formula III, wherein Ar is a C₆₋₁₄ aryl group. However, this elected invention is directed to claims 20-23. The Examiner should further note that claims 50-61 have been amended to depend on the elected invention.

Applicants further traverse the restriction requirement based on Rule 475. Applicants are entitled as a matter of right to Group VII (e.g. a product) and to at least a process of use of said product as recited, for instance, in Group IX. The compositions and methods of use utilizing the elected invention should be considered together with the product since patentability of the compositions/methods can be based upon the patentability of the novel/nonobvious compounds of Group VII. Thus, Group IX should be considered at the same time with the invention of Group VII.

Election of Species


The Examiner appears to require that Applicants elect a single compound to which the claims shall be restricted if no generic claim is finally held to be allowable. However, this requirement appears implicit rather than express in the Examiner's official paper. In reply, and in order to expedite prosecution, Applicants elect the compound of Example 1052. All elected claims read on the elected species.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Marc S. Weiner, Registration No. 32,181 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: July 26, 2006

Respectfully submitted,

By 

Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant